

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

|  |   |                     |
|--|---|---------------------|
| In the Matter of                         | ) |                     |
|  | ) | ET Docket No. 04-35 |
| New Part 4 of the Commission's Rules     | ) |                     |
| Concerning Disruptions to Communications | ) |                     |

**REPLY COMMENTS OF VERIZON WIRELESS**

Verizon Wireless submits these reply comments in response to the *Notice of Proposed Rule Making* in the above-captioned proceeding.<sup>1</sup> The NPRM proposes to extend the communications network outage reporting requirements to Commercial Mobile Radio Service (“CMRS”) providers. Verizon Wireless opposes mandatory reporting as both unnecessary and counterproductive. The Industry Led Outage Reporting Initiative (“ILORI”), in which Verizon Wireless and many other CMRS providers currently participate, already provides the FCC with sufficient information to allow it to monitor critical infrastructure outages, and parties are working to improve that system. The approach taken in the NPRM is in opposition to the Homeland Security initiatives, the private-public partnership designed to protect privately owned elements of Critical Infrastructure, and risks providing bad actors with detailed information on communications network vulnerabilities.

---

<sup>1</sup> *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communication*, ET Docket No. 04-35, *Notice of Proposed Rule Making*, FCC 04-30 (rel. Feb. 23, 2004) (“NPRM”).

## DISCUSSION

### **I. Voluntary Reporting Can Provide The FCC With The Data It Needs To Monitor Outages**

The FCC should support a revised ILORI effort rather than adopting the mandatory reporting requirement as outlined in the NPRM. As CTIA – The Wireless Association™ (“CTIA”) notes, the ILORI effort established a network reliability monitoring capability and provides a forum for industry experts to review outage data in a confidential environment.<sup>2</sup>

An added benefit of a voluntary reporting through ILORI is that the detailed information on network outages and potential vulnerabilities will be protected from public disclosure and possible misuse. In addition, ILORI can rapidly amend its collection process to address changing circumstances.

As CTIA notes, the voluntary process can collect a significant amount of data that the FCC proposes collecting through the mandatory process.<sup>3</sup> As the Commission itself recognized, voluntary efforts benefit the Commission, the telecommunications industry, and the public interest.<sup>4</sup> Cingular Wireless LLC (“Cingular”) correctly notes that data provided *voluntarily* by wireline carriers resulted in the initial wireline industry best practices.<sup>5</sup>

The information collected through ILORI is reported using a web-based program that wireless providers have been using since March 2004. The data is accessible by the National Coordinating Center within DHS to ensure that company confidentiality is

---

<sup>2</sup> CTIA Comments at 6.

<sup>3</sup> *Id.* at 7.

<sup>4</sup> NPRM ¶ 6.

<sup>5</sup> Cingular Comments at 4-5.

maintained. Thereafter, the information is forwarded to the FCC and the Network Reliability Steering Committee (“NRSC”) under the protection afforded by the Critical Infrastructure Information Act (“CIIA”).<sup>6</sup>

The FCC should not mandate public reporting at this time. It should rely on the voluntary public-private partnership to gather and review data on network outages that will not compromise national security objectives, and is consistent with other Homeland Security government initiatives, including the recently enacted Critical Infrastructure Information Act.

## **II. The Proposals Contained in the NPRM are Inconsistent with Other Homeland Security Efforts**

The FCC’s proposals should not be adopted because they would allow sensitive network data to be publicized. The FCC should coordinate with DHS and not adopt any rules that would potentially expose that data. As CTIA notes, to do otherwise would controvert the Homeland Security Presidential Directive / HSPD-7 (“HSPD”), which in part states that the Homeland Security Department will “collaborate with the appropriate private sector entities and continue to encourage the development of information sharing and analysis mechanisms [and] facilitate sharing of information about ...vulnerabilities, incidents, potential protective measures, and best practices.”<sup>7</sup> While the proposals contained in the NPRM are inconsistent with this HSPD-7, the ILORI voluntary process is entirely consistent.

Verizon Wireless agrees with CTIA that the FCC should not extend the network outage-reporting requirement to CMRS until the DHS has developed its strategic plan

---

<sup>6</sup> CTIA Comments at 7.

<sup>7</sup> CTIA Comments at 9 *citing HSPD-7, Subject: Critical Infrastructure Identification, Prioritization, and Protection*, Dec. 17, 2003.

pursuant to HSPD-7. Further, the Secretary of DHS will issue the national Infrastructure Protection Plan later this year, and any action by the FCC should be consistent with the plan to ensure consistency and meet overall national security objectives.<sup>8</sup>

The Commission should ensure that any data it receives on network security and vulnerabilities are protected from public disclosure. Verizon Wireless supports DHS's request that any outage reports should not be "generally available and easily accessible to the public" and should "be filed with the National Coordinating Center for Telecommunications-Information Sharing and Analysis Center ("NCC Telecom-ISAC")."<sup>9</sup> Further, Verizon Wireless joins Cingular in its request that the Commission should not adopt mandatory outage reporting requirements for wireless carriers, particularly where the mandatory nature of the reporting requirement would strip the information of the protection against disclosure so clearly intended by Congress in the CIAA and HSA.<sup>10</sup>

Finally, public disclosure of network outage information could have the added negative effect of damaging competition, as much of the information proposed in the NPRM would allow a competitor to gain access to data relevant to current operations of its competitors, such as customer data. The FCC must not take any action that would endanger the robust competition in the wireless industry that has resulted in lower prices and product innovation. Such competitively sensitive information is "scrubbed" through the current ILORI voluntary reporting process.

---

<sup>8</sup> CTIA Comments at 10-11.

<sup>9</sup> DHS Comments at 2-3.

<sup>10</sup> Cingular at 11-12.

### **III. There Is No Reason To Extend Mandatory Outage Reporting To The Wireless Industry And Any Extension Will Have A Negative Effect On The Commission Goals**

There is no evidence in the NPRM or comments to this proceeding that would support a conclusion that the ILORI process is not working. In the NPRM the FCC states that wireless carriers are unwilling to supply the necessary data on a voluntary basis.<sup>11</sup> This conclusion, however, is not unsupported by the facts and efforts made by wireless carriers who participated in the Network Reliability and Interoperability Council (“NRIC”) VI. In fact, as Cingular comments, the NRIC web site lists 730 best practices applicable to wireless carriers, many of which are only applicable to wireless carriers.<sup>12</sup> Nor has the FCC articulated a public policy rationale for further burdening CMRS providers. The current process provides the necessary information in a timely manner. If there are problems with the process that do not yield data the Commission wants, it should first change that system, not mandate wholly new requirements.

In addition, the competitive pressures of the CRMS marketplace are greater than any other sector in the telecommunications industry. Wireless carriers compete on several levels including network reliability and service quality. Competition not regulation is better suited to fix any network outage causes. As Cingular comments, “Any wireless carrier that fails to meet its customer’s expectations with regard to service quality will quickly find itself without that person as a customer. No regulatory mandate is needed to spur wireless carriers to provide high-quality, disruption-free service to their customers.”<sup>13</sup>

---

<sup>11</sup> NPRM ¶¶ 11-12.

<sup>12</sup> Cingular Comments at 5 *citing* [www.nric.org](http://www.nric.org). Go to “Best Practices” and using the keyword “wireless”.

<sup>13</sup> Cingular Comments at 6.

#### **IV. Any Rules Must be Modified to Reflect How Wireless Services and Networks Operate.**

##### **Calculation of Potentially Affected Users**

In the NPRM the FCC seeks to impose reporting requirement based on the number of wireless users that are *potentially affected* whether or not that individual attempted to place a call.<sup>14</sup> It is impossible for a wireless carrier to know how many individuals actually would be affected by an outage since the same outage that would make it impossible for an individual to make a call would make it impossible for a CMRS provider to detect a failed call attempt. A better alternative, as CTIA notes in its comments, is to allow wireless carriers to rely on historical loading data to estimate the number of affected individuals.<sup>15</sup> As Cingular notes, an appropriate metric for wireless carriers would be “failure of a mobile switching center for 30 minutes and/or 90,000 blocked originating calls within 30 minutes time period, as recommended by the NRIC committee.”<sup>16</sup> Further, adoption of this metric would negate the proposed, unworkable requirement that carriers calculate “user/minutes”.

##### **“Planned” Outages Should Not Be Reportable**

As CTIA requests, the Commission should amend its proposed rules governing outages to clarify that only “unplanned” outages of 30 minutes or more would be potentially reportable.<sup>17</sup> Carriers should not be required to report a “planned” outage that is for the purpose of system maintenance or upgrades that take more than 30 minutes.

---

<sup>14</sup> NPRM ¶¶ 36-39.

<sup>15</sup> CTIA Comments at 12.

<sup>16</sup> Cingular Comments at 15.

<sup>17</sup> *Id.*

*Only Licensees Should Be Required to Report Outages*

In the NPRM, the FCC proposes to require that outage reports be “submitted by communications providers, their affiliates, and those who maintain or provide communications systems on their behalf.”<sup>18</sup> Verizon Wireless supports CTIA’s request that the outage report filing requirement apply to licensees, as requiring multiple entities to file reports on the same outage would be a waste of both public and private resources.<sup>19</sup>

*Outage Reporting Potentially Affecting An E911 Special Facility*

The NPRM also proposes rules for E911 calls that require carriers to report an “outage that potentially affects a 911 special facility” and impacts the ability of a communications provider to “complete 911 calls (including all associated name, identification, and location data)” for at least 30 minutes. The Commission incorrectly states that such additional information is necessary to “complete” a 911 call. FCC rules require any carrier with a compatible air interface to complete 911 calls, and analog cellular phones to attempt an alternate carrier if the call does not go through to the public safety-answering point (“PSAP”). Calls to 911 do not require such additional information to be successfully completed. In addition, not all PSAPs are capable of Phase I or Phase II E911 service. In such cases, the 911 call is still completed and the E911 call taker can collect the additional information. Given the fact that no consistent methods for monitoring current 911 systems exist,<sup>20</sup> and that wireless carriers do not have control over the entire 911-path<sup>21</sup> the Commission’s proposal regarding E911

---

<sup>18</sup> NPRM ¶ 18.

<sup>19</sup> CTIA at 13.

<sup>20</sup> *Id.*

<sup>21</sup> Cingular at 16.

reports would be burdensome if not impossible. Further, currently deployed 911 locations systems do not collect the type of data proposed in the NPRM.

If the Commission proceeds with rules, it should adopt Cingular's proposed reporting threshold "All unplanned outages of a MSC greater than 30 minutes and/or 90,000 blocked calls within a 30 minute time period".<sup>22</sup>

*Initial Outage Report Within 120 Minutes of Outage*

In the NPRM the FCC proposes to require wireless providers to file an initial outage report within 120 minutes of an outage.<sup>23</sup> This proposed requirement will actually hinder restoration efforts as the highly skilled personnel that are most capable of restoring the network are the same personnel that would be diverted to collecting the proposed required data necessary to complete the initial outage report.<sup>24</sup> Further, as CTIA notes, wireless providers will need to carry out investigations before they can accurately assess the cause of an outage, rendering such initial outage reports of little value.<sup>25</sup> Finally, the NPRM fails to provide any discussion of why a report is necessary within 120 minutes and what if anything the FCC will do with the information once it receives the information. In fact, because the initial outage report contains carrier contact information, it is likely that the report will result in inquiries from FCC staff that would further distract highly skilled staff from network restoration. Therefore, Verizon Wireless supports CTIA's proposal that initial outage reports be made within 72 hours of

---

<sup>22</sup> *Id.*

<sup>23</sup> NPRM ¶ 18.

<sup>24</sup> Sprint Communications ("Sprint") at 26.

<sup>25</sup> CTIA at 15.



a reportable event, with the final report to be filed within 30 days. These timeframes are consistent with the ILORI voluntary reporting procedures.<sup>26</sup>

*The Commission Should Not Require Reports of Wireless Outages Affecting Airports*

In the NPRM the FCC proposes requiring outage reports covering all airports.<sup>27</sup> As Sprint correctly comments, wireless carriers do not have dedicated access lines assigned to airport control towers or airport security offices. As such, wireless carriers would have no means of knowing if one of their devices was being used at an airport,<sup>28</sup> making compliance with the proposed rule impractical.

*The Commission Should Not Delegate Rulemaking Authority to OET*

In the proposed rules in Appendix A, the FCC would grant to the Chief of the Office of Engineering and Technology (“OET”) “delegated authority to make revisions to the filing system and template....”<sup>29</sup> The proposed rule does not require OET to give notice and receive comment on proposed changes to the filing system and template. Verizon Wireless agrees with CTIA and Cingular that the FCC should not delegate rulemaking authority to OET.<sup>30</sup>

## CONCLUSION

As discussed above, Verizon Wireless urges the Commission to continue to exempt CMRS carriers from mandatory public reporting of network outage information. The record does not support new rules. Instead, the FCC should review the new ILORI

---

<sup>26</sup> *Id.* at 16.

<sup>27</sup> NPRM ¶ 15.

<sup>28</sup> Sprint Comments at 25.

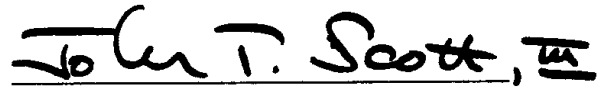
<sup>29</sup> NPRM *Appendix A, proposed revision of § 0.241 of the Rules.*

<sup>30</sup> CTIA at 16; Cingular at 18.

process, which is already meeting the objectives that the FCC seeks to achieve in the NPRM, and work to improve ILORI as necessary. Further, the FCC must coordinate its decision with the Department of Homeland Security to ensure that uniform policies and regulations for protecting the wireless telecommunications infrastructure are developed.

Respectfully submitted,

By:

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

John T. Scott, III  
Vice President and Deputy  
General Counsel - Regulatory Law

Michael Samsock  
Senior Attorney  
Verizon Wireless  
1300 I Street, N.W., Suite 400W  
Washington, DC 20005  
(202) 589-3768

June 24, 2004